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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Written statement submitted by the International Committee for European Security and Cooperation, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV).

[23 February 1995]

Improving the effectiveness of human rights

1. The International Committee for European Security and Cooperation traditionally has used its good offices for the analysis, debate on and eventual resolution of conflicts of an international character, particularly those involving or eventually affecting European interests. When it decided to concentrate its energies on the political, ethnic and religious problems of the area some call Kurdistan, while others refer to it as south-eastern Turkey, Mosul Vilayet or northern Iraq, it did not only look at this area in terms of Europe's strategic oil interests. There were other intriguing points, such as the area's reputation as being the cradle of civilization, the birth area of major religions, and the crossroads of commercial and cultural exchanges between East and West. And the more this research delved into in

this world of 1001 Nights, the more it became evident that there exists a multitude of gross human rights violations. At the same time, this research turned out to be a source of inspiration for improving the effectiveness of the work of this Commission.

2. To illustrate this point briefly, in 1932, as a sine qua non obligation of its independence and continued existence as a sovereign State, Iraq solemnly incurred comprehensive and still binding international minority protection obligations (see E/CN.4/Sub.2/1992/NGO/27, annex). These obligations are seen to have been massively violated by successive Iraqi regimes. In fact, for the inhabitants of the Mosul Vilayet, the human rights situation has continually and gravely deteriorated since this area was conditionally attached to the Kingdom of Iraq in 1925 by the League of Nations. One novel way for the Commission to contribute to improved human rights conditions in Iraq and elsewhere could thus be found in the minority protection mechanism which are discussed in United Nations documents E/CN.4/1994/NGO/48 and E/CN.4/1994/NGO/54. And though this mechanism was put into place by the League of Nations, it was formally transferred to the United Nations system by way of General Assembly resolution 24 (1) of 12 February 1946, and it may still be useful.

3. There are other examples. Genocidal practices were carried out against Assyrians in 1933, i.e. only one year after Iraq gained its independence. Most of the Kurdish Jews were driven out of Iraq after 1948. Genocidal practices were started in 1975 against the Yezidi as a religious Kurdish minority. And, as the Special Rapporteur on the situation of human rights in Iraq has indicated in his report (E/CN.4/1993/45, paras. 89-126), the genocidal practices against the Kurds as a whole came to a peak in 1988 with the infamous Anfal programme involving the destruction of over 4,000 villages, including poison gas attacks against some Kurdish villages. Thus, if minority protection guarantees are to be reliable and to help resolve actual or future political trouble spots in the Baltics (E/CN.4/Sub.2/1993/NGO/27) and elsewhere in the world, the beneficiaries of such guarantees should be given tangible instruments in order to effectively communicate related problems to the guaranteeing powers and obtain prompt redress. The answer may be human rights monitors duly nominated by the people concerned.

4. A further avenue for improvement concerns the special rapporteurs who are deprived of an opportunity to visit the countries concerned. Iraq and Turkey are cases in point. The leadership of the Mosul Vilayet Council 1/ decided to turn the tables by bringing the victims and witnesses to the United Nations in Geneva for direct testimony. This programme is under way. More direct testimonies to this Commission and to the special rapporteurs are planned - despite the obstructions by some Turkish officials, including the recent arrest of four Iraqi United Nations witnesses at the airport in Istanbul.

1/ Constituted on 15 May 1992 and consisting of some 250 personalities, parliamentarians and representatives of the Assyrian, Kurdish and Turcoman community of the 91,000 km^2 Mosul Vilayet which is situated to the north of the Baghdad Vilayet and which the League of Nations, in 1926, conditionally attached to the Kingdom of Iraq rather than to Turkey.

5. To be sure, neither Iraqi nor Turkish officials have a monopoly on regrettable behaviour. Nor are human rights violations confined to governmental levels. In fact, significant human rights violations are often committed by non-governmental sources and outside the reach of a free society's effective governmental controls. Of course, this phenomena is not new and the Commission has attempted to deal with its effects on numerous occasions. But there seems to be scope for improvements when one considers it from the angle of human rights violations associated with the proliferation and eventual use of weapons of mass destruction. So far public attention has concentrated almost exclusively on the governmental level of proliferation. This is particularly noticeable in the presently re-debated Treaty on the Non-proliferation of Nuclear Weapons (NPT). Indeed, not all that can and should be done is in fact done on the very real and growing danger of proliferation by criminal organizations and other non-governmental entities with regard to materials which are capable of mass destruction, mass poisoning and mass infections. And while there appear to be neither ready nor easy answers to this, it would seem to be indicated that both the Governments concerned and the Commission need to take a close look.

6. On a more traditional human rights track, there is another universal phenomenon of growing proportions. The subject is disappeared persons, persons being held in detention without trial, and persons being held incommunicado. This is an unbearable situation for the families concerned. And it is a stigma not only on the authorities involved but also on the responsible individuals.

7. From a huge number of cases, the following examples may serve to illustrate the problems. They concern an area which is outside of the world's public attention, i.e. Sindh on the Asian sub-continent. A Sindh leader, Dr. Maqbool Khushik, and two others reportedly were taken away from their homes by the Pakistan Security Forces three months ago. As yet they have not been produced in any court of law. The families have failed to locate them as the authorities have persistently refused to give any information regarding their safety, conditions and whereabouts. Experiences show that it cannot be excluded that they have been tortured and might in fact have already died in custody.

8. Another illustrative case is that of the 92-year-old Father of the Sindhi nation, H.E. G.M. Syed, who is being detained without trial for demanding the right of self-determination for his people, and the Government blankly refuses to produce him in front of any court of law, in spite of appeals for his release from all over the world.

9. Perhaps, in these, as in most other cases around the world, an adapted version of the old principle of habeas corpus could provide effective relief. Concretely, the walls of silence and darkness must be broken down. Effective measures to make Governments more responsive and accountable are thus called for. And if, for example, some motivated and competent representatives of NGOs were to put their heads together and start coordinating their intellectual, networking and other resources, appropriate ways and means are likely to be found to get the detaining authorities, or the responsible ministry, to effectively furnish the crucial information they have on any given person.

10. Perhaps the aggrieved family could be helped to effectively sideline the local and the national authorities and access directly the existing inquiry mechanism built into the mandates of the High Commissioner for Human Rights, the Working Group on Enforced or Involuntary Disappearances or of another suitable human rights body. And perhaps these already overloaded and underfunded institutions could be assisted by regional representatives who might be supported by local NGOs and funded from alternative sources, including sponsorships involving suitable commercial firms and private persons.